

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID K. EASTMAN,
Petitioner,
v.
UNKNOWN,¹
Respondent.

No. 2:20-cv-1725 DB P

ORDER

Petitioner, a state prisoner proceeding pro se, has filed a letter with the court requesting early release. The court liberally construes the document as a habeas corpus filing pursuant to 28 U.S.C. § 2254.

Petitioner has not filed the request on the proper form, nor has petitioner filed an in forma pauperis affidavit or paid the required filing fee (\$5.00). See 28 U.S.C. §§ 1914(a); 1915(a). Therefore, petitioner will be given a proper habeas application. He will also be given an application to proceed in forma pauperis. With respect to the latter, petitioner may either submit

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¹ The court notes for the record that petitioner is currently housed at Mule Creek State Prison. (See ECF No. 1 at 1). Patrick Covello is the current acting warden at that facility. Therefore, the court shall direct the Clerk of Court to substitute his name as the respondent in this matter in lieu of "Unknown." See Brittingham v. United States, 982 F.2d 378, 379 (9th Cir. 1992) (citation omitted) (stating proper respondent in federal habeas corpus petition is petitioner's immediate custodian).

1 the appropriate affidavit in support of a request to proceed in forma pauperis, or he may submit
2 the appropriate filing fee.

3 In accordance with the above, IT IS HEREBY ORDERED that the Clerk of Court shall:

- 4 1. Replace party respondent "Unknown" with the name "Patrick Covello, Acting
5 Warden" in the case caption of the docket;
- 6 2. Send petitioner a copy of the in forma pauperis form used by this district, and
- 7 3. Send petitioner a copy of the court's petition for a writ of habeas corpus form.

8 IT IS FURTHER ORDERED that within thirty days from the date of this order, petitioner
9 shall submit:

- 10 1. A completed petition for a writ of habeas corpus, and
- 11 2. Either an affidavit in support of his request to proceed in forma pauperis or the
12 appropriate filing fee.

13 Petitioner's failure to comply with this order may result in a recommendation that this
14 action be dismissed.

15 Dated: September 7, 2020

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DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

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